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| 09/990,619 | 11/13/2001 | Eric S. Graf | 13406US01 | 3191 |
| 7590 | 12/23/2004 | | EXAMINER | |
| Kirk A. Vander Leest McAndrews, Held & Malloy, Ltd. Suite 3400 500 West Madison Chicago, IL 60661 | | | ENGLAND, DAVID E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2143 | |
| DATE MAILED: 12/23/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,619

Applicant(s)

GRAF, ERIC S.

Examiner

David E. England

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119.

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/13/2001.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 25 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 5, 7, 9 – 13, 15 – 17, 19 – 20, 22 and 23 are rejected under 35

U.S.C. 102(e) as being anticipated by Youn U.S. Patent No. 6219691.

4. Referencing claim 1, as closely interpreted by the Examiner, Youn teaches a dynamic distribution and network storage system, said system comprising:

5. a network for transmitting data, said network capable of transmitting said data from a first connection to a second connection, said network further capable of circulating said data within said network in order to store said data, (e.g. col. 3, lines 35 – 49).

6. Referencing claim 2, as closely interpreted by the Examiner, Youn teaches a server for transmitting said data to said network, (e.g. col. 3, lines 35 – 49).

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7. Referencing claim 3, as closely interpreted by the Examiner, Youn teaches a client for requesting said data from said network, (e.g. col. 5, lines 1 – 14).

8. Referencing claim 4, as closely interpreted by the Examiner, Youn teaches a staging server for selecting data to be circulated within said network in order to store said data, (e.g. col. 5, lines 56 – 64, “...control units 208-210 that interfaces with the terminals 102-108 may select a category using a predetermined algorithm that determines a category ...”).

9. Referencing claim 5, as closely interpreted by the Examiner, Youn teaches said staging server modifies said data to indicate that said data is to be circulated within said network in order to store said data, (e.g. col. 5, lines 56 – 64, “After a tag is selected and placed in the header section, the newly generated content message is circulated in the content space 702”).

10. Referencing claim 7, as closely interpreted by the Examiner, Youn teaches said network further includes at least one router for transmitting said data, said at least one router capable of transmitting said data from a first connection to a second connection, said at least one router further capable of circulating said data within said network in order to store said data, (e.g. col. 3, lines 35 – 49).

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11. Referencing claim 9, as closely interpreted by the Examiner, Youn teaches said data comprises at least one of a web page, an application, and a database, (e.g. col. 6, lines 27 – 39).

12. Referencing claim 13, as closely interpreted by the Examiner, Youn teaches modifying said packets to indicate that said packets should be circulated within said network in order to store said data, (e.g. col. 4, lines 6 – 16, “...*the control unit 202-210 selects a routing path and may write into an appropriate field 408-410 of the header section 402 information related to routing...*”).

13. Referencing claim 16, as closely interpreted by the Examiner, Youn teaches copying said data for circulation on said network, (e.g. col. 7, lines 15 – 30, “*While the content messages 502a and 520b have found matches as indicated by the groups 530 and 532, other replicated copies of the content messages 502b and 520a continue to circulate in the content space 702.*”).

14. Claims 10 – 12, 15, 17, 19 – 20, 22, 23 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 6, 8, 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youn (6219691) as applied to claims 1 & 10 above, and in view of Colby et al. (6449647) (hereinafter Colby).

17. As per claim 6, as closely interpreted by the Examiner, Youn does not specifically teach a network manager for monitoring said network. Colby teaches a network manager for monitoring said network, (e.g. col. 9, lines 5 – 24, “...*the content-aware flow switch 110 by calculating the average throughput of all flow. The degree to which a particular piece of content served by a server is “hot content” is measured by monitoring the number of hits (requests) the content receives.*”). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Colby with Youn because monitoring traffic on a network in order to keep steady flow throughout the network and to reroute and clear up congested areas of the network would make for a more efficient system.

18. As per claim 8, as closely interpreted by the Examiner, Youn teaches a router that receives updates for data, (e.g. col. 6, lines 27 – 40), but does not specifically teach said network further includes at least one edge router. Colby teaches said network further includes at least one edge router, (e.g. col. 4, line 66 – col. 5, line 10, “...*servers are connected to routers at the edges of the network 100.*”). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Colby with

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Youn because it would give the network accessibility to other networks in other system, (e.g. connecting intranets with the internet).

19. Claims 14 and 21 are rejected for similar reasons as stated above.

20. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youn (6219691) as applied to claim 23 above, and in view of Chen (6567380).

21. As per claim 24, as closely interpreted by the Examiner, Youn teaches said dynamic distribution and network storage packet is to be stored on said network as described above but, does not specifically teach said information comprises a flag in said dynamic distribution and network packet header indicating that said dynamic distribution and network storage packet is to be stored on said network, (e.g. col. 7, lines 44 – 59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Chen with Youn because it would be more efficient for a system to update a router if a network routing device is added or down which may cause data to be routed in different areas that could be faster or to avoid said down areas.

22. Claim 25 is rejected for similar reasons as stated in the rejection under 35 U.S.C. 102(e) and in view of the above claim 24.

Conclusion

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23. Examiner suggests that the Applicant be more specific in the types of data being transmitted, copied, stored and flags being set. Furthermore, be more specific to processes and steps to achieve the limitations and end products of the claimed invention in the claim language. Doing so could overcome the prior art.

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

25. a. Swildens et al. U.S. Patent No. 6484143 discloses User device and system for traffic management and content distribution over a world wide area network.

26. b. Natanson et al. U.S. Patent No. 6633542 discloses Method of establishing a flow in an ATM based MPOA network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

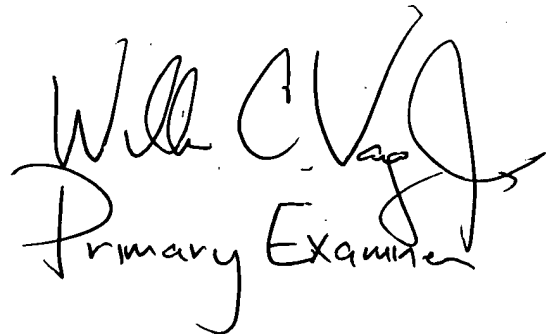
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David E. England
Examiner
Art Unit 2143

De



Primary Examiner